

Introduced by Senator BowenFebruary 12, 2004

An act to amend Sections 2850, 2851, and 2854 of the Probate Code, relating to trustees.

LEGISLATIVE COUNSEL'S DIGEST

SB 1248, as introduced, Bowen. Statewide Registry: trustees.

Existing law requires the Department of Justice to maintain the statewide registry of conservators, guardians, and trustees. Existing law requires any person who wishes to serve as a trustee to register with the statewide registry, with certain exceptions, including trustees who administer less than 6 trusts at the same time. Existing law requires the department to make information in the registry available to a court for any purpose, while otherwise keeping the information confidential. Existing law permits the department to disclose whether a person is registered with the statewide registry upon a request.

This bill would require the department to make all information in the registry regarding a trustee available to a member of the public upon request. The bill would also eliminate the exception to the registration requirement for trustees who administer less than 6 trusts at the same time.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2850 of the Probate Code is amended to
2 read:



1 2850. (a) The Department of Justice shall maintain a
2 Statewide Registry and shall make all information in the registry
3 available to the court for any purpose, but shall otherwise be kept
4 confidential, *except as provided in subdivision (f)*. On request, the
5 registry may disclose to the public whether an individual is or is
6 not registered with the Statewide Registry. Except as otherwise
7 provided in Section 2854, all persons who wish to serve as a
8 conservator, guardian, or trustee or who are currently serving as a
9 conservator, guardian, or trustee shall register with the Statewide
10 Registry and shall reregister every three years thereafter.
11 “Registration” means the filing of a declaration pursuant to
12 subdivision (b).

13 (b) All conservators, guardians, and trustees required to file
14 information with the clerk of the court pursuant to Section 2340
15 or required to register pursuant to this chapter shall file a signed
16 declaration with the Statewide Registry. A person who signs a
17 declaration pursuant to this subdivision asserting the truth of any
18 material matter which he or she knows to be false is guilty of a
19 misdemeanor punishable by imprisonment for up to one year in a
20 county jail, or a fine of not more than two thousand dollars
21 (\$2,000), or both that fine and imprisonment. The declaration shall
22 contain the following information:

23 (1) Full name.

24 (2) Professional name, if different from (1).

25 (3) Business address.

26 (4) Business telephone number or numbers.

27 (5) His or her educational background and professional
28 experience, including verification of any college or graduate
29 degree claimed.

30 (6) The names of the conservator’s current conservatees, the
31 guardian’s current wards, or the current trusts administered by the
32 trustee.

33 (7) The aggregate dollar value of all assets currently under the
34 conservator’s, guardian’s, or trustee’s supervision.

35 (8) Whether he or she has ever been removed for cause or
36 resigned as conservator, guardian, or trustee in a specific case, the
37 circumstances of that removal or resignation, and the case names,
38 court locations, and case numbers.

39 (c) On request, the registry may disclose to a member of the
40 public the educational background and professional experience of



1 a conservator, guardian, or trustee registered with the Statewide
2 Registry.

3 (d) The Department of Justice may charge a reasonable fee to
4 persons registering and re-registering with the Statewide Registry
5 for the cost of that registration. The Department of Justice shall
6 issue a certificate of registration to each registrant.

7 (e) Each court clerk shall forward a copy of any complaint filed
8 with that court, and found to be meritorious by that court, against
9 a conservator, guardian, or trustee in his or her capacity as a
10 conservator, guardian, or trustee for inclusion in the Statewide
11 Registry. The Statewide Registry shall place any copies of those
12 complaints in the file of that conservator, guardian, or trustee. No
13 anonymous complaint may be considered pursuant to this section.

14 (f) *The Department of Justice shall make all information in the*
15 *registry regarding a trustee available to a member of the public*
16 *upon request.*

17 SEC. 2. Section 2851 of the Probate Code is amended to read:

18 2851. (a) A court may not appoint a person as a conservator,
19 guardian, or trustee unless that person, if required to register under
20 Section 2850, is registered with the Statewide Registry.

21 (b) Any person serving as a conservator or guardian prior to
22 January 1, 2000, who does not register with the Statewide Registry
23 by either January 1, 2001, or by the date of the next required review
24 pursuant to Section 1850, whichever is sooner, shall be removed
25 as a conservator or guardian by the court. A trustee required to
26 register under Section 2850 who has not registered with the
27 Statewide Registry on or before January 1, 2005, shall be removed
28 as a trustee by the court.

29 (c) In appointing, continuing the appointment, or removing a
30 person as conservator, guardian, or trustee, the court shall examine
31 and consider the information contained in the Statewide Registry
32 for that person. The information contained in the Statewide
33 Registry shall be made available to the court for this purpose, but
34 shall otherwise be kept confidential, except as provided by law,
35 *including, but not limited to, subdivision (f) of Section 2850.*

36 SEC. 3. Section 2854 of the Probate Code is amended to read:

37 2854. (a) This chapter does not apply to any public
38 conservator, public guardian, or to any conservator, guardian, or
39 trustee who is related to the conservatee, ward, trustor, or vested
40 beneficiary by blood, marriage, or adoption. ~~This chapter does not~~

1 ~~apply to a trustee who administers less than six trusts at the same~~
2 ~~time.~~ This chapter does not apply to any conservator or guardian
3 who is not required to file information with the clerk of the court
4 pursuant to Section 2340, to any person or entity subject to the
5 oversight of a local government, including an employee of a city,
6 county, or city and county, or to any person or entity subject to the
7 oversight of the state or federal government, including an attorney
8 licensed to practice law in the State of California who acts as
9 trustee of only attorney client trust accounts, as defined in Section
10 6211 of the Business and Professions Code.

11 (b) This chapter does not apply to any conservator who resided
12 in the same home with the conservatee immediately prior to the
13 condition or event that gave rise to the necessity of a
14 conservatorship. This subdivision does not create any order or
15 preference of appointment, but simply exempts a conservator
16 described by this subdivision from registration.

17 (c) This chapter does not apply to a nonrelated guardian of the
18 person of a minor appointed by the court as the result of the
19 selection of a permanency plan for a dependent child or ward
20 pursuant to Section 366.26 of the Welfare and Institutions Code.
21 It also does not include a nonrelated guardian of the person of a
22 minor appointed pursuant to Section 1514 if that child is in receipt
23 of AFDC-FC payments and case management services from the
24 county welfare department, as evidenced by a Notice of Action of
25 AFDC-FC eligibility.

26 (d) This chapter does not apply to a trustee who is any of the
27 following:

28 (1) Trust companies, as defined in Section 83.

29 (2) FDIC insured institutions, their holding companies,
30 subsidiaries or affiliates. For the purposes of this paragraph,
31 “affiliate” means any entity that shares an ownership interest with
32 or that is under the common control of, the FDIC insured
33 institution.

34 (3) Employees of any entity listed in paragraph (1) or (2) while
35 serving as trustees in the scope of their duties.

